

## Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 ERDA-07 AID-05 CEA-01 CIAE-00

CIEP-02 DODE-00 FPC-01 H-02 INR-07 INT-05 L-03

NSAE-00 NSC-05 OMB-01 PM-04 USIA-15 SAM-01 OES-06

SP-02 SS-15 STR-04 TRSE-00 ACDA-10 CEQ-01 EPA-04

IO-13 NSF-02 PA-02 PRS-01 FEA-01 /140 W

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R 021833Z JUL 76

FM AMCONSUL MONTREAL

TO SECSTATE WASHDC 7686

INFO USDOC WASHDC

AMEMBASSY OTTAWA

AMCONSUL QUEBEC BY POUCH

AMCONSUL ST JOHNS BY POUCH

UNCLAS MONTREAL 853

E. O. 11652: N/A

TAGS: ENRG, BGEN, CA

SUBJ: EXPORTS OF HYDRO QUEBEC POWER TO U.S.

REF: MONTREAL 760 AND PREVIOUS

1. NATIONAL ENERGY BOARD (NEB) HEARINGS ON HYDRO-QUEBEC'S REQUEST FOR A LICENSE TO EXPORT POWER AND ENERGY TO THE POWER AUTHORITY OF THE STATE OF NEW YORK (PASNY) RECONVENED IN OTTAWA ON JULY 28 AND 29, 1976, TO HEAR ARGUMENTS BY REPRESENTATIVES OF HYDRO-QUEBEC AND FOLLOWING INTERVENORS: ASSOCIATION OF MAJOR POWER CONSUMERS OF ONTARIO (AMPCO), UNION OF AGRICULTURAL PRODUCERS (UAP), HYDRO-ONTARIO AND ONTARIO MINISTER OF ENERGY. GOVERNMENT OF NEWFOUNDLAND, WHICH PARTICIPATED IN EARLY JUNE SESSIONS IN MONTREAL, DID NOT APPEAR.

2. CONGEN OFFICER ATTENDED OTTAWA SESSIONS. FOLLOWING REPRESENTATIVES OF PASNY WERE ALSO PRESENT: SCOTT LILLY, GENERAL COUNSEL;  
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JOHN R. DAVISON, ASSOCIATE GENERAL COUNSEL; FRANK WALLACE, ALBANY

LAW SCHOOL PROFESSOR AND CONSULTANT TO PASNY; AND WILLIAM BOSTON, DIRECTOR OF POWER OPERATIONS.

3. HYDRO-QUEBEC LAWYERS REVIEWED THE CONTRACT, STRESSING THE IMPORTANCE TO HYDRO-QUEBEC OF AN INTERCONNECTION WITH THE PASNY SYSTEM AND THAT CONTRACT COULD NOT BE DUPLICATED WITH ANY CANADIAN PROVINCE. POINTED OUT THAT HYDRO-QUEBEC WILL STILL HAVE CAPABILITY TO ASSIST HYDRO-ONTARIO IN CASE OF EMERGENCY AND THAT AFTER INITIAL FIVE YEARS OF CONTRACT SURPLUS ENERGY WILL BE OFFERED TO ACCESSIBLE CANADIAN PROVINCES BEFORE IT IS SOLD TO PASNY.

4. CONSULTING ENGINEER APPEARING FOR AMPCO ARGUED LICENSE SHOULD BE GRANTED BUT LIMITED TO MINIMUM PERIOD NECESSARY TO MAKE CONTRACT VIABLE. NEB MUST CONSIDER NEEDS OF OTHER CANADIAN PROVINCES IN DETERMINING WHETHER THERE IS EXPORTABLE SURPLUS. ARGUED NEED FOR DEVELOPMENT OF EASTERN CANADIAN POWER POOL OF WHICH HYDRO-QUEBEC AND HYDRO-ONTARIO WOULD FORM BASE. SAID ANY EXPORT LICENSE GRANTED SHOULD BE REVIEWED PERIODICALLY, SUGGESTING EVERY 18 MONTHS, TO INSURE THAT ALL PARTIES ARE WORKING TOWARD DEVELOPMENT OF SUCH A POWER POOL.

5. UAP LAWYER DID NOT OFFER OBJECTION TO THE EXPORT APPLICATION. HOWEVER, HE OPPOSED PROPOSED TRANSMISSION LINE ON BASIS OF DAMAGE TO AGRICULTURAL LAND AND ASKED NEB TO REQUIRE THAT HYDRO-QUEBEC ADOPT ALTERNATIVE ROUTE.

6. LAWYER IAN BLUE, APPEARING FOR HYDRO-ONTARIO, ASKED NEB TO FIND THAT POWER AND ENERGY IN CONTRACT HAVE NOT BEEN ESTABLISHED AS SURPLUS TO CANADIAN NEEDS FOR NEXT 20 YEARS; THAT POWER AND ENERGY HAVE NOT BEEN OFFERED TO HYDRO-ONTARIO ON RELATIVELY IDENTICAL TERMS; AND THAT THERE ARE UNCERTAINTIES WHICH COULD RESULT IN AN ENERGY SHORTAGE IN ONTARIO IN 1980'S. REQUESTED NEB TO REQUIRE THAT ANY SURPLUS FIRST BE OFFERED TO ACCESSIBLE CANADIAN PROVINCES, ESPECIALLY ONTARIO. FURTHER REQUESTED THAT LICENSE, IF GRANTED, BE LIMITED TO FIVE YEARS, THAT IT BE SUBJECT TO PERIODIC REVIEW TO DETERMINE AVAILABILITY OF SURPLUS ENERGY AND THAT IT INCLUDE CONDITIONS ALLOWING CANADIAN PROVINCES RIGHT OF RECALL IN CASE OF NEED. IF LICENSE GRANTED FOR MORE THAN FIVE YEARS, ASKED THAT CANADIAN PROVINCES HAVE FIRST OPTION

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ON DIVERSITY POWER AND ENERGY MENTIONED IN CONTRACT. BLUE ARGUED THAT IT IS CONTRARY TO CANADIAN NATIONAL INTERESTS TO LICENSE EXPORT OF FIRM POWER FOR 20 YEARS. REFERRING TO CANADIAN GAS AND OIL EXPORTS, HE SAID CERTAIN EXPORT ARRANGEMENTS ARE IN TROUBLE BECAUSE OF ECONOMIC PATTERNS WHICH HAVE BECOME ESTABLISHED IN US ON BASIS OF CANADIAN SUPPLIES. HE ADDED THAT PROPOSED CONTRACT WOULD RELIEVE PASNY OF NECESSITY OF BUILDING GENERATING FACILITIES TO MEET ITS NEEDS AND THAT ANY LATER ATTEMPT TO

MODIFY OR END CONTRACT WOULD RESULT IN PRESSURES ON CANADA TO CONTINUE ENERGY EXPORTS.

7. LAWYER FOR ONTARIO MINISTER OF ENERGY, BRIAN ARMSTRONG, ARGUED ALONG SAME LINES AS BLUE. HE CALLED THIS A LANDMARK CASE WHICH WILL ESTABLISH NEB POLICY ON FUTURE INTERCONNECTIONS BETWEEN US AND CANADA. HE ASKED NEB TO FIND THAT LONG TERM CONTRACT FOR EXPORT OF ENERGY IS NOT IN THE BEST INTERESTS OF CANADA AND THAT LICENSE FOR 20 YEARS NOT BE GRANTED. IF LICENSE GRANTED FOR SHORTER PERIOD, HE ARGUED ACCESSIBLE CANADIAN PROVINCES SHOULD PERIODICALLY HAVE RIGHT TO EXERCISE FIRST OPTION ON SURPLUS ENERGY. ATTACKED HYDRO-QUEBEC CLAIMS THAT PASNY CONTRACT WOULD NOT AFFECT ITS ABILITY TO ASSIST ONTARIO IN CASE OF EMERGENCY. AS DID BLUE, ARMSTRONG STRESSED THAT EXCHANGE OF CORRESPONDENCE BETWEEN HYDRO-QUEBEC AND HYDRO-ONTARIO INTRODUCED AS EVIDENCE DURING HEARINGS DO NOT CONSTITUTE CLEAR OFFER OF SURPLUS ENERGY ON REASONABLY IDENTICAL TERMS. ARMSTRONG ARGUED THAT PROPOSED TRANSMISSION LINE IS OVERSIZED AND THAT IT WILL LEAD TO PRESSURES FOR INCREASED AND POSSIBLY CONTINUED EXPORTS TO INSURE ITS USE TO FULL CAPACITY, TO DETRIMENT OF CANADIAN INTERCONNECTIONS. SCALING DOWN OF LINE WOULD LOWER FINANCING COSTS AND REDUCE NEED FOR 20-YEAR LICENSE.

8. IN REPLY, HYDRO-QUEBEC LAWYERS ARGUED THAT CONTRACT WITH PASNY WOULD GIVE QUEBEC ITS FIRST MAJOR INTERCONNECTION WITH US AND WOULD BE OF GREAT VALUE TO QUEBEC AND CANADA AS A WHOLE. THEY POINTED OUT THAT PROPOSED CONTRACT INVOLVES DIVERSITY POWER BETWEEN TWO UTILITIES WHOSE PEAK SEASONS DO NOT COINCIDE AND THAT THIS IS A NEW DIMENSION TO WHICH NEB MUST GIVE SPECIAL ATTENTION. THEY SAID ALLEGATION THAT POWER HAD NOT BEEN OFFERED TO OTHER CANADIAN PROVINCES WAS ONLY ATTEMPT TO FAULT THEIR CASE ON TECHNICAL GROUNDS. THEY MAINTAINED THAT THE LETTERS INTRODUCED AS EVIDENCE FOLLOWED AND REFERRED TO PREVIOUS UNCLASSIFIED

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MEETINGS BETWEEN HYDRO-QUEBEC AND HYDRO-ONTARIO DURING WHICH FIRM OFFERS HAD BEEN MADE AND REFUSED. THEY STRESSED THAT HYDRO-QUEBEC WILL STILL HAVE CAPABILITY TO ASSIST HYDRO-ONTARIO IN CASE OF EMERGENCY, AS PROVIDED BY EXISTING AGREEMENT BETWEEN THE TWO UTILITIES. THEY ASKED NEB TO CONSIDER THAT PROPOSED EXPORT OF POWER AND ENERGY WILL BE BENEFICIAL TO THE CANADIAN BALANCE OF TRADE. THEY ARGUED THAT HYDRO-ONTARIO IS CONCERNED ONLY WITH FLOW OF POWER IN ONE DIRECTION BUT NOT IN AN EXCHANGE AGREEMENT WITH HYDRO-QUEBEC. POINTED OUT IT IS DIFFICULT TO RECONCILE ONTARIO'S CLAIM OF A POSSIBLE ENERGY SHORTAGE WITH ITS RECENTLY APPROVED APPLICATION FOR LICENSE TO EXPORT ENERGY TO U.S. WITH OBVIOUS REFERENCE TO ONTARIO, ATTACKED PROVINCES WHICH SEEK TO IDENTIFY THEIR OWN SPECIAL INTERESTS WITH THOSE OF CANADA AS A WHOLE.

9. NEB WILL IN DUE COURSE SUBMIT ITS RECOMMENDATION ON THIS APPLICATION TO CANADIAN CABINET FOR ITS APPROVAL, FOLLOWING WHICH A DECISION WILL BE ANNOUNCED BY THE NEB. INTERESTED PARTIES QUERIED BY CONGEN OFFICER WERE OF OPINION THAT OFFICIAL DECISION SHOULD NOT BE EXPECTED BEFORE SEPTEMBER. IN CONVERSATIONS FOLLOWING ADJOURNMENT OF HEARINGS, HYDRO-QUEBEC REPRESENTATIVES EXPRESSED CONFIDENCE LICENSE WILL BE GRANTED AND FOR PERIOD NECESSARY TO MAKE IT ACCEPTABLE TO ALL PARTIES.  
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